Quarterly Report

OF THE

ATTORNEY GENERAL

OF

ALABAMA

FOR THE PERIOD

FROM OCTOBER 1, 1968

THROUGH DECEMBER 31, 1968

VOLUME 133

MacDONALD GALLION, Attorney General

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QUARTERLY REPORT

of the

ATTORNEY GENERAL

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ALABAMA

For the Period

From October 1, 1968

Through December 31, 1968

TO THE STATE, COUNTY, AND MUNICIPAL OFFICERS OF ALABAMA:

This Quarterly Report of the Attorney General of Alabama, which includes all official opinions rendered by the Attorney General from October 1, 1968 through December 31, 1968, is published in compliance with the provisions of Title 55, Section 228, Code of Alabama 1940.

Under this section of the Code, I am required to send seven copies of this Quarterly Report to each judge of probate in the State, and the judge of probate, in turn, is required to deliver one copy each to the clerk of the circuit court, the sheriff, the tax collector, the tax assessor, the county superintendent of education, and the deputy or county solicitor of his county. This section also requires that I send a copy of this report to each circuit solicitor and the chief executive officer of each incorporated municipality in the State.

The office of the Attorney General is anxious to render prompt and efficient service to the State, county, and municipal officials. If you have any suggestions to make regarding the improvement of the service, I shall be glad to hear from you.

Sincerely,

MacDONALD GALLION
Attorney General

MacDONALD GALLION
Attorney General

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Executive Assistant

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Deputy Attorney General

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OPINIONS

October 2, 1968

Honorable Joe L. Payne
Attorney for Huntsville City Schools
Post Office Drawer 506
Huntsville, Alabama 35804

Health and Health Department — Schools — City Boards of Education

City Board of Education, pursuant to recommendation of County Board of Health, is authorized to require compulsory immunization of children attending public schools of city.

Opinion by Assistant Attorney General Calhoun.

Dear Sir:

Your request for an official opinion of this office, dated July 22, 1968, is as follows:

"The City Board of Education of Huntsville, Alabama, is requesting an Opinion from you in answer to the following question:

"Has a City Board of Education power to require vaccination of children attending City schools concerning the disease herein named:

"Smallpox, Diphtheria, Pertussia, Tetanus, Poliomyelitis and Measles.

"There is an Opinion of the Attorney General dated February 23, 1929, recorded in the Biennial report of 1928-30 on page 197 which states that County Boards of Education in conjunction with County Health officers of such Counties have authority to require the vaccination of all children who attend the public schools of the County.

"At that time the only vaccination being considered was the one against Smallpox. Therefore our above question concerning six different vaccinations was not answered by that Opinion.

"It is my understanding the City of Huntsville has not adopted an Ordinance under the provisions of Title 37, Section 493.

P.S. The Madison County Board of Health has recommended this action as shown by the attached resolution."

You have attached to the above request a Resolution of the Madison County Board of Health, adopted May 8, 1968, recommending that the

City Board of Education of Huntsville require for entrance and participation in any educational program conducted under its supervision proof of immunization against the six diseases enumerated above.

In an opinion reported in the Biennial Report of the Attorney General, 1928-30, at page 197, the Attorney General held that County Boards of Education in conjunction with the County Health Officers of such counties have authority to require the vaccination of children attending the public schools of cities within the county. Accordingly, I am of the opinion that, consonant with its statutory authority to make all needful regulations for the management and protection of the city schools and school children, a City Board of Education in conjunction with the County Board of Health of such county may likewise properly require the compulsory immunization against infectious diseases of children attending the public schools of the city. Cf. the letter of this office to Honorable T. H. Kirby, Superintendent, Opelika City Schools, under date of May 17, 1960.

It should be noted that the opinion of the Attorney General cited above addresses itself only to the question of compulsory vaccination against smallpox. I have conferred with officials of the State Board of Health, and I am informed that all six diseases in question may be categorized as communicable and are medically recognized as preventable through proper immunization. I am therefore of the opinion that the previous opinion of this office referred to above may be extended to include immunization against other communicable diseases, viz: diphtheria, pertussis, tetanus, poliomyelitis, and measles.

I note that the Resolution adopted by the Madison County Board of Health provides only that school children must furnish proof of immunization, making no provision therein as to the method of obtaining the required immunization. In this regard I have been further informed by the State Board of Health that immunization against these diseases may be obtained from the County Health Officer.

In view of the foregoing, my answer to your inquiry is in the affirmative.

Yours very truly,

MacDONALD GALLION
Attorney General

October 4, 1968

Honorable George A. Toulmin
License Commissioner of Mobile County
Mobile County Courthouse
Mobile, Alabama 36601

Motor Vehicle Licenses — Transfers.

1. Where a person purchases a used motor vehicle on or before September 30, 1968, and fails to transfer the ownership within ten days or otherwise during the 1968 license tax year, as is required by Title 51, Section 706, as amended (See Act No. 201 of the 1965 Special Session of Alabama Legislature), Code of Alabama 1940, Recompiled 1958, when he applies on the following October 1, or thereafter for a license for the same vehicle for the 1969 license tax year, he is required to report the transfer of ownership before you can issue to him a license for the 1969 license tax year.

2. Where a person purchases a used car in 1968 and fails to have the 1968 license thereon transferred into his name as is required under Title 51, Section 706, as amended, supra, and more than ten days have elapsed since the date he acquired said car you are required to collect the penalty of $1.50 for late transfer, as is provided for in subsection (d) of Section 706, as amended, supra, before you issue, upon application and payment therefor, a new license for said car for the 1969 license tax year.

3. Where said person has failed to transfer the 1968 license tag on the motor vehicle involved as is required under Section 706, as amended, supra, and he applies for a license after October 1 for the 1969 license tax year, he is required to report the transfer of ownership and pay the penalty of $1.50 for a late transfer, before you can issue him a license for the 1969 license tax year. However, if he does so and also purchases the new license before November 16, 1968, he would not be liable for the fifteen percent penalty for delinquency. If he fails to do so before November 16, he would beliable for both said penalty of $1.50 and the fifteen percent penalty for delinquency.

Opinion by Assistant Attorney General Burton.

Dear Sir:

Your request for an official opinion from the office bearing date of September 21, 1968 is as follows:

"After giving consideration to the enclosed questions relative to a correct interpretation of certain provisions of Act No. 201, of the First Special Session of the Alabama Legislature of 1965, approved April 20, 1965, amending Title 51, Section 706, Code of Alabama 1940, Recompiled 1958, which apply specifically to

counties of this State having population of 300,000 or more, kindly let me have your answers thereto.

"In connection with this request for an official opinion, we respectfully refer you to that prior opinion dated October 28, 1945, carried in the Quarterly Report of the Attorney General of Alabama, Vol. 121, page 17.

"Your official interpretation of the provisions hereinabove mentioned will be greatly appreciated so that we may have proper guidance for procedures which must be ready for the operation of our office on and after October 1, 1968."

The questions attached to your said letter and which you have requested that I answer are as follows:

"1. If a person, firm or corporation purchases a used motor vehicle on or before September 30, 1968; and on, or after October 1, 1968, applies to our office for a new 1969 motor vehicle license, shall he be required to obtain a transfer on our records, before we can issue him such 1969 motor vehicle license?

"2. If the applicant for a 1969 Motor Vehicle license which has not been transferred into his name since its acquisition by him fails to secure the transfer of the 1968 license on our records, within the ten day no penalty period will he be liable for the $1.50 penalty under subsection (d) of Act 201, amending Section 706, of Title 51, Code of Alabama, 1940, Recompiled in 1958? (See Copy Enclosed)

"3. Suppose the applicant mentioned in question one above, purchased such vehicle more than ten days before October 1, 1968, will he be liable to a penalty, and if so, shall it be for $1.50 or shall it be the 15% penalty levied for not having purchased the 1969 license and tag within the four (4) day no-penalty period allowed the purchaser of a new or used motor vehicle? (See Section 464, Title 51, Code of Alabama, 1940, Recompiled 1958)."

Title 51, Section 706, as amended, supra, provides in material part that where a proper motor vehicle license has been bought for a specific motor vehicle for the current license tax year, the same shall remain on the vehicle for said year, and no other additional license shall be required for that vehicle for that license tax year, even though the vehicle is sold and the ownership of the vehicle is transferred one or more times during said license tax year. Provided, however, that the change in ownership is reported to the Judge of Probate within five days from the date of the change of ownership by both the old and new owner.

Subsection (d) of Section 706, as amended by Act No. 201 in 1965, supra, the subsection to which you refer, is applicable in counties only of 300,000 or more population, which would include Mobile and Jefferson Counties. It provides that upon the failure of the owner of the vehicle to report the transfer of ownership to the Probate Judge, or such other officer performing the duties of the Probate Judge, or failure of said owner to file a copy of the bill of sale with the Probate Judge, within ten days from the date upon which the motor vehicle was acquired or repossessed, that the owner shall pay a penalty of $1.50 as a penalty for a late transfer. Said subsection also provides that any person failing to perform the duties required of him by the provisions of this section shall be guilty of a misdemeanor, and upon conviction therefor shall be fined not less than twenty-five dollars nor more than one hundred dollars for each offense.

It will be noted in this respect that the one dollar and fifty cents penalty is to be paid to the Probate Judge, or other officer performing the duties of the Probate Judge, for noting and recording the transfer, when the transfer has not been made within ten days from the date of the change of ownership. Moreover, this Section relates to the transfer of ownership of the vehicle and a transfer of the license during the current license year.

Reading the opinions of the Attorney General concerning the subject matter, it clearly appears that it has been established that where once a proper license has been procured for an automobile for the current year, the vehicle may be operated on the highways of this State for the remainder of the current license tax year with such license tag, regardless of change in ownership, and the failure of a new owner or one or more successive owners to report the transfer to the Probate Judge or Commissioner of Licenses, as the case might be. Quarterly Report of the Attorney General, Vol. 31, page 60. Therefore, such vehicle can be operated on the highways of this State with the same license plate, where properly acquired in the first instance and where it is still current, regardless of whether or not the transfer of ownership is reported by the new or the former owner. Biennial Report of the Attorney General, 1936-1938, page 259.

The Courts of this State have also held that the purposes of the transfer provisions of Title 51, Section 706, are mainly regulatory. It has been noted in this respect, that the record of change of ownership under Section 706, supra, is provided for the benefit of members of the public in the case of injury, etc., **to know who the current owner of the automobile actually is,** as well as for the information of the State Department of Revenue for tax purposes. **Duke v. Williams,** 249 Ala. 574, 32 So. 2d 362. However, where there has been a failure to report the transfer, it has been held that it is some evidence **that the first**

owner is still the owner, or there has been no change of ownership, in the case of negligence or in damage suits. Thus, it pays to report the transfer to protect one's self in this respect. See **Duke v. Williams,** supra. And while failure to report the transfer within the time prescribed by Section 706 would not invalidate the license tag for the license tax year, it would make both the old and the new owner subject to be prosecuted for a misdemeanor, under the last paragraph contained in Section 706.

However, the current owner, when he applies for his 1969 license on or after October 1, 1969, is required by Section 706, as amended, supra, to file with you his bill of sale or other evidence of ownership, and also to report to you the transfer of ownership to him before you can issue to him a license for said new license year. Quarterly Report of Attorney General, Vol. 121, page 17.

The new or current owner of the vehicle is not required under Section 706, as amended, supra, or otherwise by law, to account for the ownership of the car in any other owner thereof during the license year, nor is he liable in any respect for the payment of the $1.50 penalty for the failure of some other owner of the vehicle to timely report the transfer of ownership. Section 706 is not a motor vehicle title law. It only requires that the old and the new owner of the vehicle file a copy of the bill of sale and report the transfer of ownership to you. It only makes the new owner responsible for his own omissions in this respect, and his own failure to timely report the transfer of ownership to you.

With the foregoing being considered, your questions are answered in the order as presented by you, as follows:

1. The answer to your first question is in the affirmative.

2. My answer to your second question is in the affirmative.

3. Your third question is answered to the effect that where the new owner has not had the 1968 license transferred or has not reported ownership during the 1968 license year to the Probate Judge or License Commissioner, as the case may be, then he is required to report the transfer and also pay the one dollar and fifty cents penalty to you before you can issue to him a license on October 1, for the 1969 license tax year. However, if he does report such transfer and pay said one dollar and fifty cents penalty before November 16, 1968 (the date that the new license becomes delinquent if not paid by said date), he would not be liable for the fifteen percent penalty for delinquency. If he fails to purchase the new license or to report the change of ownership to you under such circumstances until November 16, 1968, or thereafter, then he would be liable for both said penalty of one dollar and fifty

cents and the fifteen percent penalty in issuing him a license for the 1969 year on or after that date.

Very truly yours,

MacDONALD GALLION
Attorney General

October 7, 1968

Honorable W. Cecil Johnson
Chairman
Commissioners Court
Clarke County
Grove Hill, Alabama

Counties — Loans — Pensions and Security, Department of.

1. Counties may make temporary loans under the provisions of Title 12, Section 125, Code of Alabama, 1940, Recompiled 1958, as amended (1967 Cumulative Pocket Part), to construct a building for the County Department of Pensions and Security.

2. Temporary loans made pursuant to Section 125 of Title 12, as amended, supra, shall mature not later than February 1 of the year following that in which the loan is made.

3. The term "year" referred to in Section 125 of Title 12, as amended, supra, contemplates a fiscal year.

4. Temporary loans made pursuant to authority of Title 12, Section 125, as amended, supra, must be budgeted in accordance with Section 85 of Title 12, supra.

Opinion by Assistant Attorney General Webb.

Dear Judge Johnson:

Your request for an official opinion dated September 13, 1968 is as follows:

> "Clarke County wishes to erect a building to house the Department of Pensions and Security; the building will cost approximately $50,000.00, and the Court of County Commissioners wishes to pay for it out of the General Fund. However, the General Fund cannot handle this obligation unless it can legally borrow the $50,000. It appears to us that Sections 124

and 125 (as amended) of Title 12 of the Code will permit the County to borrow not to exceed $50,000 for the purpose indicated, and it would appear that the loan must be repaid at not less than 10% per year, which we believe within the means of the General Fund to handle.
"I have the following questions which I wish to propound to you:

"1. Can the County legally and validly borrow $50,000.00 under the provisions of Sections 124 and 125 (as amended) of the Code for the purpose above indicated?

"2. Assuming that this loan would be negotiated and consummated in the month of October, 1968, is it appropriate that we make it mature not later than February 1, 1969 and pledge for its repayment the taxes which become due on October 1, 1968 and delinquent on January 1, 1969?

"3. Does the statute contemplate that we would make the entire debt mature not later than February 1, 1969, and that upon such maturity the County would issue a new warrant or certificate for $45,000 or less, applying the proceeds of such new temporary loan to the retirement of the original indebtedness and paying the interest and at least $5,000.00 out of funds then on hand? Or,

"4. Would it be permissible to issue a single warrant or certificate maturing in principal installments of $5,000.00 each over a period of ten years, the installments maturing on or before February 1 of each year beginning in 1969?

"5. In either event, how do we handle this temporary loan in the budget which we are about to adopt for the approaching year? Section 85 of Title 12 indicates that we should include the proceeds of the loan as a part of the operating revenue, and that 'the amount of such temporary loan, principal and interest, payable in each fiscal year, shall constitute a part of the current operating expenses to be included in the budget of the county for the fiscal year in which such loans are payable, and shall be paid out of the funds pledged therefor.' The difficulty there is that we must include the cost of the building in the budget disbursements, which would offset the item shown in receipts as proceeds of the temporary loan; then, if we must also include repayment of the entire loan (which apparently we must make mature on or before February 1, 1969) we would necessarily have a budget indicating greater disbursements than receipts. Since it is actually contemplated that we will retire the loan in annual installments of $5,000, our problem is how to set up the transaction properly in the budget."

Title 12, Section 125, Code of Alabama 1940, Recompiled 1958, has been amended by the provisions of Act No. 512, Acts of Alabama 1959, page 1263, and now reads, in pertinent part, as follows:

> "Such loans shall not be in an amount greater than fifty thousand dollars ($50,000.00) per year and may bear interest not to exceed six percent per annum. All such loans shall mature not later than February first of the year following that in which the loan is made and may be renewed only upon payment of all interest then due, together with not less than ten percent of the principal then outstanding; . . . . No proceeds from any loans made under the provisions of this chapter shall be used for any purpose other than that for which the general funds of the county may now be used."

Under the provisions of Title 49, Section 17(11), Code of Alabama 1940, Recompiled 1958, the county may make appropriations for office space of the County Department of Pensions and Security. In my opinion, this includes the construction of a building to house the department. See, for example, Quarterly Report of Attorney General, Volume 15, page 342. I, therefore, answer your first question in the affirmative. Quarterly Report of Attorney General, Volume 26, page 73, and Volume 49, page 104.

In your second question, you assume that this loan would be negotiated and consummated in the month of October, 1968. You, therefore, request my opinion as to whether or not it would be appropriate that the loan be made to mature not later than February 1, 1969. In my opinion, this is a matter that addresses itself to the sound discretion of the county governing body. Section 125 of Title 12, as amended, supra, provides that the loan shall mature not later than February 1 of the year following that in which the loan is made. The Legislature does not define what is meant by the term "year." However, Title 1, Section 2, Code of Alabama 1940, Recompiled 1958, provides, in pertinent part:

> "The word 'year' means a calendar year; but, whenever the word 'year' is used in reference to any appropriations for the payment of money out of the treasury, it shall mean fiscal year."

The repayment of loans involves an appropriation from the treasury of the county and I am, therefore, of the opinion that the proper interpretation to be placed upon Section 125 of Title 12, supra, is that such loan shall mature not later than February first of the year following the fiscal year in which the loan is made. Although this department has not previously ruled directly on this point, my opinion is bolstered by the holding in Quarterly Report of Attorney General, Volume 48, page 92, at which a temporary loan executed on October 11, 1944, for a period of one year was approved by this office as being proper under the provisions of Section 125, Title 12, prior to its amendment in 1959.

I, therefore, answer your second question to this effect that, in my opinion, a loan negotiated in the month of October, 1968, may be made payable not later than February 1, 1970.

As to the second part of your second question concerning taxes to be pledged for the repayment of the temporary loan, your attention is invited to Sections 85 and 124 of Title 12, supra, which, when considered in the light of the history of loans in anticipation of taxes and the budget provisions, in my opinion, mean that the county should pledge a sufficient amount of uncollected taxes of the year in which the loan is made payable to secure the repayment of such loan.

In response to your third question, I am of the opinion, as previously stated, that a temporary loan negotiated during the month of October, 1968 must mature not later than February 1, 1970, and that, upon such maturity, the county may renew the loan upon payment of all interest then due, together with not less than ten percent of the principal then outstanding.

The answers to your first three questions, in my opinion, obviates the necessity of answering your fourth and fifth questions other than to state that temporary loans must be budgeted under the provisions of Section 85, Title 12, Code of Alabama 1940, Recompiled 1958. Section 85 does not provide that the entire loan must be repaid at its maturity but, rather, that the amount of such temporary loan principal and interest payable in each fiscal year shall constitute a part of the current operating expenses to be included in the budget for the fiscal year in which such loans are payable.

Very truly yours,

MacDONALD GALLION
Attorney General

October 21, 1968

Honorable W. W. Weatherford
Judge of Probate and Chairman
Board of Revenue
Franklin County
Russellville, Alabama

Elections — Voting Places — Relocation.

In the event a previous voting place is unavailable either because it has been destroyed by fire or otherwise, a new voting place may be established within the precinct, the provisions of Title 17, Section 90(4), Code of Alabama 1940, to the contrary notwithstanding.

Opinion by Assistant Attorney General McQueen.

Dear Sir:

Your request for an official opinion of this office, bearing date of September 24, 1968, is as follows:

> "The Board of Revenue of Franklin County, Alabama, would like for you to answer the following question for them:
>
> "Under Title 17, Section 90(4) of the 1940 Code of Alabama, the board must make any change in the voting place for a precinct before three months prior to an election day. In the event a voting place becomes unavailable because of fire or any other unavoidable reason, may the governing body of the county establish a new voting place for the precinct within the three months prior to an election day?"

My answer to your inquiry is in the affirmative.

Title 17, Section 90(4), Code of Alabama 1940, prohibiting changing of election precincts, districts, wards, or voting places within three months of an election, is not applicable to the situation presented by you. This section applies to those instances wherein the change is sought to be made for reasons other than the fact that the existing voting place has been destroyed by fire or is not otherwise available for good and sufficient reasons and is no longer available as a voting place.

It is a matter of common knowledge that an election must be held at the prescribed time, and the county governing body must provide places for holding these elections.

You are, therefore, advised that, in my opinion, if the voting place within any given precinct has been destroyed by fire, then in that event the Court of County Commissioners may provide another voting place within the precinct, the provisions of Section 90(4) notwithstanding.

Very truly yours,

MacDONALD GALLION
Attorney General

October 30, 1968

Honorable Woodfin Patterson
President
Jefferson Davis College
Brewton, Alabama 36426

Colleges and Universities — Funds — Rewards — Schools — State Board of Education.

A state junior college has no authority to offer rewards for apprehension of vandals and thieves for offenses against the school's property.

Opinion by Assistant Attorney General Webb.

Dear Mr. Patterson:

Your request for an official of October 7, 1968 reads as follows:

"As soon as possible, please give us a ruling on the following questions:

'1. Can Jefferson Davis State Junior College, Brewton, Alabama, legally spend its funds—state appropriations, student tuition, student activity funds, funds from bookstore, funds from vending machine concessions—for reasonable rewards to help apprehend vandals and thieves for offenses against the school's property?

"2. If the money spent for rewards is replaced by the offender, is it legal to use the college's funds for this purpose?
"The college is in the incorporated limits of the City of Brewton."

In an opinion of this office to Honorable James E. Moore, County Attorney, Mobile County, under date of December 21, 1964, reported in Quarterly Report of Attorney General, Volume 117, page 59, this office held.

"In the absence of contrary constitutional provisions, the legislature of a state may offer rewards to those who shall initiate or carry on prosecutions for a crime; or it may authorize the offering of such rewards. The authorities very generally agree, however, that municipalities and **other subdivisions of the state** have no power to offer rewards for the apprehension of offenders against the criminal laws of the state, unless a statute or charter provisions confers such power, as is sometimes done. — 46 Am. Jur. 109, Rewards, Section 8.

"Title 15, Chapter 2, Article 1, (Sections 44-47), Code of Alabama 1940, Recompiled 1958, contains statutory provisions regarding rewards. Sections 44 and 45 authorize the Governor to offer and pay rewards in certain circumstances. Section 46 is the authority of the municipalities to offer and pay rewards. I am unable to find any statutory provisions dealing with the expressed or implied authority of a county, a political subdivision of a state, to offer and pay rewards."

The State Board of Education has the responsibility of operating and maintaining the various state junior colleges under the provisions

of Title 52, Section 509 (96), Code of Alabama 1940, Recompiled 1958. I find nothing in this section or in any other statute which would authorize a state junior college to pay out of its funds, whether appropriated or non-appropriated, for rewards to help apprehend vandals and thieves. I, therefore, answer both of your questions in the negative.

Very truly yours,

MacDONALD GALLION
Attorney General

October 31, 1968

Mrs. Dorothy S. Hitchcock
Executive Secretary
The State Employees' Insurance Board
660 Adams Street
Montgomery, Alabama

Insurance — State Employees' Insurance — Bids. Act No. 833, 1965 Regular Session of the Legislature, makes discretionary the matter of yearly reopening for bids on State Employees' Health Insurance.

Opinion by Assistant Attorney General Clark.

Dear Mrs. Hitchcock:

Your request for an official opinion, bearing date of October 16, 1968, is as follows:

> "I have been asked by the State Employees' Insurance Board to request an opinion regarding Act No. 833, 1965 Regular Session, Section 6, Paragraph 2, page 24. (See enclosed.)
>
> "The Board wishes a definite decision as to whether the State Employees' health insurance contract must be re-opened for bids every year, or if this is left to the descretion of the Board. "Your assistance in this matter will be greatly appreciated."

The pertinent parts of Section 6 of Act No. 833, General and Local Acts 1965, are as follows:

In Paragraph 1 of Section 6, supra, " . . . Before entering into any contract hereby authorized, said Board shall invite competitive bids from all qualified insurors who may wish to offer plans for the health insurance coverage desired. . . . "

In Paragraph 2 of Section 6, supra, " . . . The Board may at the end of any contract period discontinue any contract, or contracts, it has

executed with any carrier and replace same with a contract, or contracts, with any other carrier, or carriers, meeting the requirements of this Act."

The above-quoted portion of Paragraph 2 of Section 6 of Act No. 833 makes the matter of reopening for bids every year discretionary with the Board. Had the Legislature intended that the Board be required to ask for new bids yearly, the word "shall" or "must" would have been used instead of "may" in regard to discontinuance of any contract or contracts.

My answer to your question is in the negative. No new bidding is required as long as the insurer is carrying out the contract until the Board discontinues the contract and reopens for bids.

Yours very truly,

MacDONALD GALLION
Attorney General

October 31, 1968

Honorable D. H. Lackey
Chief of Police
City of Montgomery
P. O. Drawer 159
Montgomery, Alabama

Criminal Law — Words & Phrases — Firearms.

1. Carrying a chemical mace dispenser concealed on the person is not prohibited by Alabama law.

Opinion by Assistant Attorney General Bradley.

Dear Sir:

Your request for an opinion of this office bearing date of October 23, 1968 is as follows:

> "Please issue an informal opinion concerning the right of an individual's having in his possession chemical mace dispensers.
>
> "We are interested in whether or not this would be classified as a concealed weapon under the statutes of Alabama law."

It is my opinion that carrying a chemical mace dispenser concealed on the person would not be prohibited by Alabama law.

Title 14, Section 175, Code of Alabama 1940, Recompiled 1958, provides as follows:

"No person shall carry a pistol in any vehicle, or concealed on or about his person, except on his land, in his own abode or fixed place of business, without a license therefor as hereinafter provided."

Title 14, Section 172, Code of Alabama 1940, Recompiled 1958, defines a "pistol" as any firearm with a barrel less than twelve inches in length.

Webster's International Dictionary, Third Edition, defines a "firearm" as a weapon from which a shot is discharged by gunpowder.

The chemical mace dispenser is not a weapon from which a shot or projectile is discharged by gunpowder, but it is a dispenser from which a gas under pressure is released. The released gas has an unusually debilitating effect on a person who is in the immediate vicinity of it, but it is harmless.

This office in an opinion to the Honorable Bill Lyerly, Director of Public Safety, under date of January 10, 1957, held that a tear gas device was not a firearm nor did it come within the definition of a pistol, and therefore was not illegal to have in one's possession.

I would also like to point out that the chemical mace does not come within the definitions of the other weapons prohibited by Article 1 of Chapter 40 of Title 14, Code of Alabama 1940, Recompiled 1958.

Therefore, I conclude that a person in possession of a chemical mace dispenser, whether concealed or not, is not violating the Alabama statutes prohibiting a person from having in his possession certain weapons or firearms.

Very truly yours,

MacDONALD GALLION
Attorney General

October 31, 1968

Honorable Bernard A. Reynolds
Judge of Probate
Dallas County
Courthouse
Selma, Alabama

Probate Judge — Motor Vehicles — License Tags.

1. Upon application therefor, a license tag must be issued for a Dune or Beach Buggy if such vehicle comes within the definitions contained in Act No. 580, Acts of Alabama 1967, page 1343 (Title 51,

Section 692, Code of Alabama 1940, as Recompiled 1958).

Opinion by Assistant Attorney General Bradley.

Dear Sir:

Your request for an opinion of this office bearing date of September 25, 1968 is as follows:

> "There are a number of vehicles now operating upon the streets and highways of the State of Alabama which are reconstructed vehicles and are commonly known as Dune Buggies or Beach Buggies. Most of these vehicles are made from the dismembered body of one vehicle and a motor taken from another vehicle. Further, most of them do not incorporate usual safety devices in their construction, as hold belts and windshield wipers, tag lights, etc.
>
> "Will you please answer the following question:
>
> "May the several Probate Judges of the State of Alabama lawfully issue license plates to such vehicles?"

The answer to your question is in the affirmative.

Title 51, Section 692, Code of Alabama 1940, as Recompiled 1958, as amended by Act No. 580, Acts of Alabama 1967, page 1343, defines as follows:

> " 'Motor vehicle' means every vehicle which is self-propelled, every vehicle which is propelled by electric power from overhead trolley wires, and every vehicle that is drawn by a self-propelled vehicle, including every trailer and semitrailer."
>
> " 'Private passenger automobile' means and includes every motor vehicle designed primarily for the transportation of nine persons or less except the following: (1) motorcycles; (2) motor vehicles used in the transportation of persons for hire; (3) trailers or semitrailers; or (4) self-propelled campers or house cars; and includes also every motor vehicle of the type usually referred to as a bus which is owned and operated by an individual for personal or private use and not for hire, rent or compensation. Motor trucks of the type commonly known as 'pickups' or 'pickup trucks,' regardless of the use made of any such motor trucks and regardless of whether the owner thereof owns or has access to any other mode of transportation, shall not be deemed to constitute a private passenger automobile."
>
> " 'Vehicle' means every device in, upon or by which any person or property is or may be transported or drawn upon a highway,

excepting devices moved by muscular power or used exclusively upon rails or tracks."

Title 51, Section 693, Code of Alabama 1940, as Recompiled 1958, as amended by Act No. 223, Acts of Alabama 1967, page 282, provides, in part, as follows:

"The following annual license taxes and registration fees are hereby imposed, and shall be charged, on each private passenger automobile operated on the public highways of this state * * *.

* * * * * * *

"The purchaser of any motor vehicle requiring a tag shall have four days from the date of its acquisition within which to procure the required tag."

Applying the definitions in the above-cited statutes to the vehicle described in your letter, I am of the opinion that the owner of such vehicle could apply to you for a license and you would be required to issue him one if all other requirements are met.

I am also aware of the legal requirements contained in Title 36 of the Code of Alabama 1940 that a motor vehicle must comply with before it can be driven on a public highway; but I do not believe that would concern you in the issuance of a license for such a vehicle.

Very truly yours,

MacDONALD GALLION
Attorney General

November 8, 1968

Honorable Cecil Black
Deputy Director
State of Alabama Building Commission
State Office Building
Montgomery, Alabama 36104

Building Commission — Words and Phrases.
Where the State Building Commission was authorized and directed by Title 55, Section 367(7), Code of Alabama 1940 (Recompiled 1958), to promulgate, before January 1, 1946, and to enforce a code of minimum building standards, but did not promulgate such standards before January 1, 1946, the State Building Commission cannot now do so without further legislative authorization.

Opinion by Assistant Attorney General Hall.

Dear Mr. Black:

Your request for an official opinion bearing date of November 4, 1968, is as follows:

> "Title 55 — Subdivision 2 (Building Code), Section 367(7), states that the State Building Commission 'is authorized and directed hereby to promulgate, before January 1, 1946, and to enforce a code of minimum building standards.'
>
> "As of this date no code of minimum building standards has been adopted by the State Building Commission.
>
> "Due to the phrase 'before January 1, 1946,' would it now be legal for the State Building Commission to promulgate said 'code of minimum building standards' or would it be necessary for the State Legislature to again authorize and direct adoption of a code of minimum building standards?"

I find that on September 4, 1945, the Attorney General rendered an opinion to Honorable Raymond D. Fowler, State Budget Officer, who was also ex officio secretary of the State Building Commission, to the effect that this provision was not an unwarranted delegation of authority in violation of Section 44, Constitution of 1901. Quarterly Report of Attorney General, Vol. 40, Page 40.

However, I note that as of the date of your letter, no code of minimum building standards had been adopted by the State Building Commission.

The word "before," when used as indicating time, has been defined as 'earlier than; preceding in time; previously to; and prior in time." 10 C. J. S., Page 231; **Hooper v. Young,** 58 Ala. 585, 589; 52 Am. Jur., Time, Section 26.

Although Title 55, Section 365(10), Code of Alabama 1940 (Recompiled 1958), authorizes and directs the Building Commission to make such changes in the code from time to time as seem advisable in the best interest of the people of Alabama, since no code of minimum building standards was promulgated before January 1, 1946, this section of the code is inoperative.

Therefore, in my opinion, it would not now be legal for the State Building Commission to promulgate a code of building standards, but that if the State Building Commission desires to do so, it will be necessary to obtain additional legislation to that effect.

Very truly yours,
MacDONALD GALLION
Attorney General

November 8, 1968

Honorable C. Neal Pope
County Attorney
Russell County
P. O. Box 130
Phenix City, Alabama 36867

Juveniles — Juvenile Courts — Attorneys — Counties.

A judge may appoint an attorney to represent a child in juvenile court, compensation for said services to be paid by the county treasurer.

Opinion by Assistant Attorney General Lockett.

Dear Sir:

Your request for an official opinion of this office of recent date is as follows:

"I have been asked by the County Commission of Russell County, Alabama, whom I represent, for a ruling from you in regard to the payment of attorneys' fees for representing indigent minors in juvenile court under Title 13 of the Code of Alabama of 1940, recompiled 1958.

"Our newly constituted juvenile court has adopted the policy of appointing attorneys to represent each individual minor who comes before the Court. These attorneys, in turn, have been submitting bills for their services to the County for payment. I can find no authority authorizing the payment of any such attorneys' fees out of County funds,

"I, therefore, certify the following questions to you:

"1. Does a juvenile judge, empowered to act under Title 13 of the Code of Alabama of 1940, recompiled 1958, have the authority to appoint attorneys to represent the interest of children who come before the court regardless of the nature of the proceedings.

"2. If the answer to question number one is in the affirmative, are these attorneys entitled to compensation for their services, and if so, from what source is this compensation to be paid.

"A prompt reply from you in this matter will be greatly appreciated as we are getting numerous bills submitted to us and they will in the aggregate constitute a substantial sum of money."

Title 13, Section 359, Code of Alabama 1940, states in part:

> " . . . In every case the court may, in its discretion, appoint an attorney to represent the child."

Therefore, the answer to your first question is in the affirmative.

Title 13, Section 351, Code of Alabama 1940, states in part:

> " . . . All expenses necessary or appropriate to the carrying out of the purposes and intent of this chapter and all expenses of maintenance and care of children that may be incurred by order of the court in carrying out the provisions and intent of this chapter, shall be valid charges and preferred claims against the county and shall be paid by the county treasurer when itemized and sworn to by the creditor or other persons knowing the facts in the case, and approved by the judge."

In view of **Re Gault**, 387 U.S. 1, 87 S. Ct. 1428, 18 L. Ed. 2d 527 (1967), it is evident that juveniles are entitled to an attorney. Compensation for said attorneys is to be paid by the county treasurer, Title 13, Section 351, supra.

I trust this answers your inquiry.

Very truly yours,

MacDONALD GALLION
Attorney General

November 12, 1968

Honorable Ralph W. Adams
President, Troy State University
Troy, Alabama 36081

Colleges and Universities — Schools — Teachers — Retirement.

Troy State University may establish a retirement system for its faculty and staff in addition to that provided under the Teachers' Retirement Act established by Title 52, Chapter 14, Code of Alabama 1940, Recompiled 1958, if the expense of such retirement system is paid from funds other than those appropriated to Troy State University by the State of Alabama, or political subdivision thereof.

Troy State University may establish a retirement system for faculty and staff who are not eligible for membership in the Alabama Teachers' Retirement System and may pay the expenses of such from either appropriated or non-appropriated funds, pursuant to Title 28, Sections 351(1),

351(2), Code of Alabama 1940, Recompiled 1958 (1967 Cumulative Pocket Part).

Opinion by Deputy Attorney General Bookout.

Dear Sir:

Your request for an official opinion bearing date of November 8, 1968, is as follows:

> "1. May Troy State University establish a retirement system for its faculty and staff in addition to the Alabama Teachers' Retirement System and pay all or part of the premiums from funds not appropriated by the State of Alabama, such as stuent fees, auxiliary enterprise profits or any other non-appropriated funds.
>
> "2. May Troy State University establish a retirement system for faculty and staff who are not eligible for membership in the Alabama Teachers' Retirement System with all or part of such premiums to be paid from appropriated or non-appropriated funds as defined above."

My answer to your first question is in the affirmative. Title 52, Section 372, Code of Alabama 1940, Recompiled 1958, reads in pertinent part as follows:

> "No other provision of law in any other statute which provides **wholly or partly at the expense of the State of Alabama or of any political subdivision thereof** for pensions or retirement benefits for teachers of the said state, . . . shall apply to members of the retirement system established by this chapter; . . . ." (Emphasis supplied.)

We construe the phrase "at the expense of the state of Alabama or of any political subdivision thereof" to mean expenses paid from funds **appropriated** by the State or any political subdivision thereof. Therefore, the above limitation would not prohibit Troy State University from establishing a retirement system for its staff and faculty in addition to that established under Title 52, Chapter 14, Code of Alabama 1940, Recompiled 1958, provided the expense of such retirement system is paid from funds not appropriated from the State of Alabama to Troy State University.

My answer to your second question is likewise in the affirmative. Title 52, Section 372, supra, provides that persons under the Teachers' Retirement System cannot receive additional retirement benefits which are provided at the expense of the State. That section does not prevent persons from receiving benefits from a retirement system provided at the expense of the State where such persons are not receiving benefits under the Teachers' Retirement System. It is, therefore, my opinion that

Troy State University may establish a retirement system for faculty and staff who are not eligible for membership in the Alabama Teachers' Retirement System and may pay the expenses of such from either appropriated or non-appropriated funds available to the institution.

Ample authority for establishing a retirement annuity plan is found in Title 28, Sections 351(1), 351(2), Code of Alabama 1940, Recompiled 1958 (1967 Cumulative Pocket Part).

Very truly yours,

MacDONALD GALLION
Attorney General

November 12, 1968

Honorable Walter S. Houseal
Superintendent of Insurance
State of Alabama
Montgomery, Alabama

Insurance — Capital Requirements of Mutual Aid Associations discussed.

Mutual Aid Association which surrendered its certificate of authority in 1958 is required to be licensed under current law.

Opinion by Assistant Attorney General Clark.

Dear Sir:

Your request for an official opinion of this office bearing date of October 10, 1968, is as follows:

"I have had a question presented to me upon which I would like your opinion. The facts are as follows: A mutual aid association, founded in 1929, sold, in 1958, all of its insurance business and certain assets to an Alabama legal reserve life insurance company. At this point it was no longer engaged in the insurance business, consequently its certificate of authority was surrendered.

"The corporation, however, was continued as a regular business corporation, without changing its articles of incorporation.
"During the interim between the time that this company surrendered its certificate of authority and the present time the Alabama legislature increased the capital and surplus requirements for the formation of a mutual aid association (Title 28, Sec. 246). In order for this company to receive a new certificate of authority to transact mutual aid business would it be

required to meet the requirements set forth in Title 28, Sec. 246 or would it be permitted to reenter the mutual aid business based on the capital requirements in effect either at the date of its original incorporation or in effect at the date of the surrender of its certificate of authority?"

Act No. 99, General and Local Acts of Alabama 1967, approved July 31, 1967 (Title 28, Section 246, Code of Alabama 1940, as amended) reads as follows:

"§246. Capital and surplus.—No such corporation shall be organized with a paid-in capital of less than fifty thousand dollars, nor shall any such corporation be licensed to commence business unless it has received not less than the sum of fifty thousand dollars in paid-in cash for subscription to its capital stock, nor unless it has, in addition to the minimum paid-in capital, surplus in an amount not less than seventy-five thousand dollars. After issuance of its initial certificate of authority to do business in this state, such company may use the surplus required by this article in its normal course of business, provided the minimum capital must never be impaired. Nothing contained in this article shall be construed to require any corporation already organized and licensed under the laws of this state as a mutual aid, benefit, or industrial company or association to increase its surplus in the manner indicated."

As stated in your letter, the Mutual Aid Association surrendered its certificate of authority in 1958. Now said association wishes to get a new certificate of authority.

While it is true that the Legislature provided that there should be no increase in surplus for those businesses already organized and licensed, the Mutual Aid Association in question, in my opinion, relinquished this exemption when it surrendered its certificate of authority and must now be licensed under the provisions of Act No. 99, supra.

Yours very truly,

MacDONALD GALLION
Attorney General

November 13, 1968

Mr. D. A. Dennis, Jr.
Secretary
Alabama State Board of Pharmacy
1300 Arlington Street
Mobile, Alabama 36605

Pharmacists — Drug Stores.

1. A person who worked out of the State of Alabama or who was not employed on a full-time basis in a drug store or pharmacy during a period of at least fifteen (15) successive years next preceding the offer of such proof, as is set forth in Title 46, Section 257(a9), Code of Alabama 1940, Recompiled 1958, as amended 1966, has not complied with the requirements of said section and therefore the Board of Pharmacy may properly deny such applications.

2. A person who has been employed in another occupation not related to the drug field during the period of fifteen (15) successive years prior to the offer of such proof, within the meaning of Title 46, Section 257(a9), Code of Alabama 1940, Recompiled 1958, as amended 1966, has a break in such employment which would justify the State Board of Pharmacy in denying these applications.

Opinion by Assistant Attorney General Tyson.

Dear Sir:

Your request for an official opinion of this office dated October 30, 1968, is as follows:

"The Board of Pharmacy at its meeting October 21, 1968 agreed to reconsider a number of applicants for Assistant Certificates who were previously denied. In order that the Board might have the Attorney General's thinking, I have been requested to ask for an official opinion regarding Title 46, Chapter 12, Section 257(a9), formerly Act 205, Section 9, which states in part:

" 'Any bona fide resident of this State who shall furnish proof to the Board in person by affidavits from two pharmacists licensed by the State Board of Pharmacy, neither of whom shall be related to the applicant by blood or marriage, within a period of ninety (90) days subsequent to the effective date of this Act establishing the fact that he has filled prescriptions under the supervision of a licensed pharmacist over a period of at least fifteen (15) successive years next preceding the offer of such proof shall be issued an assistant's certificate . . .'

"Our questions are:

"1. Should a person who worked out of the State of Alabama and not under the supervision of a registered pharmacist during part of that time be considered in compliance with this Act?

"2. Where an individual was gainfully employed in non-related work on a full-time basis and did relief work on a part-time basis in a drug store at night and/or weekends, should he be considered as having filled prescriptions in accordance with the above?

"3. Should a person who has been out of the drug field during this period of time, employed at another occupation, other than those serving in the military, be considered in compliance with this Act? If so, what is the maximum amount of time that we should consider if this is allowed? Since the law uses the word 'successive' when referring to the fifteen years prior to the offer of such proof, the Board held that this meant without any break in employment other than illness, vacations or military service."

The answer to question one is in the negative, as the term "supervision of a licensed pharmacist" means to work under the supervision of a pharmacist licensed by the State Board of Pharmacy during the fifteen (15) year period as set forth in Title 46, Section 257(a9), Code of Alabama 1940, Recompiled 1958, as amended 1966.

In regard to your second question, the term " fill prescriptions under the supervision of a licensed pharmacist over a period of at least fifteen (15) successive years next preceding the offer of such proof" means regular full-time employment in a pharmacy or drug store duly licensed through the Alabama State Board of Pharmacy, and weekend and/or other relief work such as part-time work, where employed full time in a non-related field, does not comply with the provisions of the aforesaid statute.

The answer to question three is also in the negative, as again the term "establish the fact that he has filled prescriptions under the supervision of a licensed pharmacist over a period of at least fifteen (15) successive years next preceding the offer of such proof" means that any break in such employment other than illness, vacation, or military service should not be accepted.

I trust this answers your inquiry.

Yours very truly,

MacDONALD GALLION
Attorney General

November 13, 1968

Mr. D. A. Dennis, Jr.
Secretary,
Alabama State Board of Pharmacy
1300 Arlington Street
Mobile, Alabama 36605

Pharmacists — Physicians — Drug Stores — Dentists Veterinarians.

A medical or veterinary practitioner may not be prohibited from purchasing his own prescription blanks under the provisions of Title 46, Section 257(a15), Code of Alabama 1940, Recompiled 1958, as amended 1966, but a pharmacist or drug store may not allow his name or the address of the pharmacy to be used by a medical or veterinary practitioner in having prescription blanks printed.

Opinion by Assistant Attorney General Tyson.

Dear Sir:

Your request for an official opinion of this office dated October 30, 1968, is as follows:

> "Title 46, Chapter 12, Section 257(a15), formerly Act 205, Section 15, states in part:
>
> " 'No prescription blank supplied by a pharmacy or pharmacist to a practitioner shall bear the imprint thereon of the name or address of any pharmacy or bear the name or address of any person registered under this Act. .'
>
> "The Board has requested an official opinion from your office as to whether this Section could be construed to prohibit a practitioner of medicine from purchasing his own prescription blanks and printing thereon the name of a pharmacist or pharmacy."

There is nothing in the above mentioned statute, being Title 46, Section 257(a15), Code of Alabama 1940, Recompiled 1958, as amended 1966, which would prohibit a medical, dental, or veterinary practitioner from purchasing his own prescription blanks. However, the above statute does prohibit anyone who has received a license or permit from the Board of Pharmacy from allowing his name or the name or address of the pharmacy or drug store from appearing on such blanks or forms.

I trust this answers your inquiry.

Yours very truly,

MacDONALD GALLION
Attorney General

November 26, 1968

Honorable Nathan G. Watkins
County Attorney
Sumter County
Livingston, Alabama 35470

Counties — Appropriations — Health and Health Department — Newspaper and Newsstands — Publications — Records.

1. The Board of Commissioners of Sumter County, Alabama, may not legally make a contribution of county funds to the Lurleen B. Wallace Cancer Fund.
2. The semi-annual publication of receipts and disbursements of Sumter County, Alabama, must be published in a newspaper published in Sumter County, Alabama, and printed in Sumter County, Alabama.

Opinion by Assistant Attorney General Tyson.

Dear Sir:

Your request for an official opinion of this office bearing date of November 7, 1968, is as follows:

> "The Sumter County Board of Commissioners has instructed me to submit the following question to you with the request that you give us an opinion. May Sumter County legally contribute to the Lurleen B. Wallace Fund? I feel sure that this matter has been carefully considered and that we would be able to contribute legally, but the Board feels that we should have an opinion.
>
> "Also, under Code of Alabama, Title 12, Section 22 (recompiled 1958), Publication of Receipts and Disbursements, there is a requirement that we make a semi-annual publication of receipts and disbursements in a **newspaper published** in the county. Sumter County now has two 'newspapers' and we are making an effort to determine if the second 'newspaper' is eligible to receive this publication. The 'newspaper' does not have a second class permit, and so far as I am able to determine, is not qualified to take 'legals.' Also, the paper is printed outside of Sumter County. Would the Publication of Receipts and Disbursements be considered a 'legal'? Would this 'newspaper' be qualified to publish same?"

The answer to your first inquiry is in the negative, as there is no authority under law at the present time under which public funds may be legally contributed to a private agency no matter how meritorious its objectives may be. This office has determined that as of the present time, the fund which has been started in memory of the late beloved Governor Lurleen B. Wallace is a private agency with no official legal status under the law. In light of this, no public funds may be contributed or appropriated to this fund.

The answer to your second inquiry is in the negative, as the provisions of Title 12, Section 22, Code of Alabama 1940, Recompiled 1958,

requires that the semi-annual publication of receipts and expenditures of the county **be published in a newspaper published in the county which also must be printed in the county.** In light of this, the newspaper of which you speak would not be eligible under the above statute. See informal opinion of Attorney General dated March 14, 1968, to Honorable W. E. Dearman, Probate Judge, a copy of which is herewith attached. See also Title 7, Sections 713-726, Code of Alabama 1940, Recompiled 1958.

I trust this answers your inquiry.

Yours very truly,

MacDONALD GALLION
Attorney General

December 12, 1968

Honorable Horsley White, Register
Circuit Court in Equity, Chilton County
Clanton, Alabama

Costs and Fees — Registers — Alimony — Nonsupport.

Fees allowed to registers for receiving, keeping and paying out or disbursing monies in alimony and support cases under the provisions of Title 11, Section 27, Code of Alabama 1940, Recompiled 1958, are to be deducted by the registers from the monies which are paid into the office for said purposes, unless otherwise specifically directed by the court in which the matters are adjudicated.

Opinion by Assistant Attorney General Screws.

Dear Sir:

Your request for an official opinion dated November 26, 1968, is as follows:

"Under Title 11, Section 27, the Register is allowed a one and one-half percent commission on receiving, keeping and paying out or distributing money on the first one thousand dollars and on all over one thousand dollars and not over five thousand dollars, one percent, etc.

"The question has been brought up as to who is responsible for paying this commission. I would appreciate very much you advising me whether the person making the alimony or support payments is responsible for paying the commission as extra court cost or if the commission is to be deducted by the

Register from the monies (alimony or support payments) paid into the office."

In answer to your inquiry, it is my opinion that the commissions in question are to be deducted by the register from the monies which are paid into his office for the purposes under consideration.

Title 11, Section 27, Code of Alabama 1940, Recompiled 1958, provides in pertinent part as follows:

"**Fees allowed to registers.**—Registers are entitled to the following fees for the following services:

* * * * * * *

" . . . For receiving, keeping and paying out or distributing money, other than that arising from sales, on the first one thousand dollars, one and one-half percent; on all over one thousand dollars and not over five thousand dollars, one percent; on all over five thousand dollars, not exceeding ten thousand dollars, one-half of one percent; and all over ten thousand dollars, one-fourth of one percent; receiving, keeping, and paying out money paid into court under a decree in favor of an administration ad litem, one-half of one percent on the amount so received and paid out . . . ."

The provisions of the above-quoted Code section are applicable to monies received and paid out or disbursed for alimony.—Quarterly Report of Attorney General, Volume 28, page 172. They are also applicable to monies received and paid out or disbursed in support cases.—Quarterly Report of Attorney General, Volume 80, page 21.

It is my opinion that the commissions in question allowed the register are to be deducted from the monies collected by said register, and the balance thereof paid out or disbursed to the proper parties involved. This is the normal course of procedure unless specifically directed otherwise by the court in which the matters are adjudicated. This conclusion is in accordance with the administrative construction over a number of years which, although not controlling, is entitled to great weight.—**State v. Hobbie Grocery Co.**, 225 Ala. 151, 142 So. 46; **Hamm v. Procter**, 281 Ala. 54, 198 So. 2d 782.—See 18 Alabama Digest, Statutes, Key No. 219, and cases cited thereunder.

Yours very truly,

MacDONALD GALLION
Attorney General

December 18, 1968

Honorable Bernard A. Reynolds
Judge of Probate
Dallas County
Selma, Alabama

Appropriations — Counties — Municipalities.

1. A municipality may assist in fighting fires which occur beyond its corporate limits and police jurisdiction.
2. A county may appropriate funds to share with a municipality the cost of fighting fires within the rural areas of the county.

Opinion by Assistant Attorney General Gish.

Dear Sir:

Your request for an official opinion dated October 23, 1968, is as follows:

> "Frequently the City of Selma Fire Department is called to fires in the rural areas of Dallas County.
>
> "I would appreciate it if you would render an opinion on the following questions:
>
> "May the Governing Body of Dallas County, Alabama, share with the City of Selma, Alabama the expense incurred by the Fire Department of the City of Selma in answering fire alarms from the rural areas of Dallas County, Alabama?
>
> "May the Governing Body of Dallas County, Alabama, share with the City of Selma, Alabama, the expense incurred by the Fire Department of the City of Selma in answering fire alarms in the rural areas of Dallas County, Alabama, which are within the police jurisdiction of the City of Selma, Alabama?"

This office held in Quarterly Report of Attorney General, Volume 112, page 55, that a municipality may assist in fighting fires which occur beyond its corporate limits and police jurisdiction. This authority is granted by Act No. 558, Acts of Alabama 1955, page 1219, which statute is now codified in Title 37, Chapter 8, Article 7, Code of Alabama 1940, Recompiled 1958.

Act No. 558, supra, specifically authorizes a municipality to contract with a county regarding the use of the fire department of the municipality in rural areas.

Therefore, both of your questions are answered in the affirmative.

Very truly yours,

MacDONALD GALLION
Attorney General

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Transfer of ownership of used car—penalty for failure to report when securing license for subsequent year 8

—V—

VOTERS AND VOTER LISTS:

Relocation of voting places when former place is destroyed or otherwise unavailable—when same should be made 16

INFORMAL OPINIONS

During the period covered by this Quarterly Report of the Attorney General, October 1, 1968 through December 31, 1968, the Attorney General rendered the following informal opinions. These informal opinions are not published in the Quarterly Report.

Subject Matter	Addressee	Date	File No.
	—C—		
COUNTIES:			
Bids—Copying Machines	Wayne E. Johnston	Oct. 4	4
Bids—Maintenance or Warranties	John H. Marcus	Nov. 6	43
Bids—Prime Contractors	W. D. Ritch	Dec. 5	75
Circuit Clerks—Employees	Thomas L. Hammons	Oct. 3	21
Courthouses—Parking Spaces	T. J. Lockhart	Dec. 6	108
Insane Persons—Transportation	Bill Dannelly	Oct. 3	26
Jurors—Medical Expenses	Kermit Johnson	Nov. 20	64
Sheriffs—Conventions	Selma Sanford	Nov. 8	48
Sheriffs—Conventions	Selma Sanford	Nov. 8	48
Sheriffs—Special Deputies	Joe J. Phillips, Sr.	Oct. 8	28
Tax Funds—Reimbursement	Lee M. Otts	Nov. 18	63
Tax Study—Agents	Ben Cherner	Oct. 17	18
Water—Service Areas	Calvin L. Vest	Nov. 21	109
CRIMINAL LAW:			
Court Proceedings—Transfer	Riley P. Green, Jr.	Nov. 21	54
Jurors—Number	D. L. Rosenau, Jr.	Dec. 13	111
Mace—Possession	Earl C. Morgan	Nov. 4	Dist. Atty.
Pistol Permits—Records	John R. Phillips	Dec. 6	112

Subject Matter	Addressee	Date	File No.
Probation—Sentences	Erwin N. Griswold	Oct. 1	2
School Bus—Passing	Leon W. Crocker	Dec. 18	119
Search Warrants—City Officials	W. Johnson McCall	Dec. 12	87
Search Warrants—City Officials	Charles E. Guntharp	Dec. 20	116
Search Warrants—Officials	M. M. Gibson	Nov. 19	96
Search Warrants—Sufficiency	W. M. Marable	Oct. 9	10
	—E—		
ELECTIONS:			
Absentee—Deadline	Guy Hunt	Oct. 2	9
Absentee—Eligibility	Herschel Thornton	Oct. 2	7
Absentee—Servicemen	Earl McNeill	Oct. 2	8
Absentee—Servicemen	Nell Hunter	Oct. 14	19
Absentee—Servicemen	Mary C. Yarbrough	Oct. 23	29
Absentee—Students	W. Elsworth Haughton	Oct. 17	21
Congressional Districts—Precincts	Nell Hunter	Nov. 27	19
Municipalities—Ballot Boxes	C. W. Crawford	Oct. 2	1
Voters—Purging	J. A. Gann	Oct. 3	27
	—H—		
HOSPITALS:			
Accounting—Fiscal Year	W. D. Walley	Nov. 7 & Dec 13	44
Ambulance Service—Collection	Yetta G. Samford, Jr.	Nov. 14	47
Ambulance Service—Municipalities	William H. Nevels	Dec. 11	90
Clinics—Surplus Funds	W. T. Steele	Oct. 10	12
Discounts—Residents	Dean H. Byrd, Sr.	Dec. 18	35

Subject Matter	Addressee	Date	File No.
Health Centers—Leases	W. J. Lee, Jr.	Oct. 22	32
Health Officers—Minors	James E. Moore	Oct. 2	24
Non-residents—Indigents	Dean H. Byrd, Sr.	Oct. 28	35
Records—Microfilming	J. Newell Floyd	Nov. 14	83
Scholarships—Payments	Milton C. Sullivan	Dec. 9	91
University—Pharmacist	Frank A. Rose	Nov. 13	52
	—I—		
INSURANCE:			
Board of Education—Insurance	Virgil Nolen Price	Oct. 2	6
Group—Transfer	Walter S. Houseal	Oct. 3	Ins. Dept.
Motor Vehicles—Liability Policies	Walter S. Houseal	Oct. 15	Ins. Dept.
School Buses—Liability	John R. Hargis	Oct. 16	15
Trade Schools—Liability	Ernest Stone	Dec. 18	Ed. Dept.
	—M—		
MUNICIPALITIES:			
A.B.C. Act—Abrogation	Barbara Ann Baggette	Nov. 25	73
A.B.C. Act—Annexation	Gwin Wells	Dec. 17	99
Bids—Partnerships and Corporations	James E. Arrington	Dec. 18	117
Councilman—Volunteer Fireman	Mary M. Halladay	Dec. 18	98
Industrial Development—Grants	Kenneth W. Gilchrist	Dec. 27	46
Library Board—Abolition	Elizabeth Beamguard	Nov. 20	Lib. Serv.
Mayors—Automobile Allowance	Archie I. Grubb	Dec. 18	97
Mayors—Census	W. W. Malone, Jr.	Dec. 30	107
Mayors—Pardons	G. W. Nicholson	Oct. 2	25

Subject Matter	Addressee	Date	File No.
Mayors—Records	R. D. Gibbons	Oct. 22	22
Police Jurisdiction—Licenses	Joe P. Dark	Oct. 22	33
Zoning—Revision	W. M. Young	Oct. 29	36
	—O—		
OFFICERS AND OFFICES:			
Boards of Registrars—Compensation	S. K. Adams	Oct. 14	20
City Councilman—Utility Employee	William F. Black	Oct. 8	Pub. Serv.
Constables—Jurisdiction and Fees	O. B. Griffin	Nov. 20	53
Constables—Jurisdiction and Fees	Jack W. Combs	Dec. 18	101
County Commissioners—Expenses	Alfred W. Goldthwaite	Dec. 20	118
County Commissioners—Expenses	John R. Hargis	Nov. 14	15
Garnishments—Salaries	G. V. Sanders	Nov. 6	40
Legislator—Unexpired Term	John W. Pemberton	Dec. 3	78
Mayors—Census	G. William Noble	Oct. 22	23
Sheriffs—Uniforms	Alfred W. Goldthwaite	Dec. 20	118
Tax Assessor—Retirement	Albert P. Brewer	Dec. 3	Gov. Off.
Tax Collector—Death	W. J. Lee, Jr.	Dec. 17	32
Water Works—Vacancies	V. O. Capps	Oct. 4	3
	—S—		
SCHOOLS:			
Counties—Cities	T. E. Martin	Oct. 24	34
County Boards of Education—Voting	Joe Boyd Vinyard	Nov. 14	49
Junior Colleges—Funds	Hubert Hammond	Nov. 14	51
Nursing—Examinations	Ernest Stone	Dec. 30	Ed. Dept.
Rural Lands—Reversion	Allen Thornton	Oct. 9	16

Subject Matter	Addressee	Date	File No.
Teacher Tenure—Semesters	Hugh H. Williamson	Nov. 27	69
Textbooks—History	Ernest Stone	Nov. 27	Ed. Dept.
STATE AND STATE DEPARTMENTS:			
Air Bases—Leases	Alfred C. Harrison	Dec. 19	Mil Dept.
Architects—Corporations	Charles H. McCauley	Dec. 26	Bd. Arch.
Banks—Electro Teller	W. M. Collins	Oct. 1	11
Conservation Department—Attorneys	Joe W. Graham	Oct. 9	Conserv. Dept.
Conservation Department—Trees	Joe W. Graham	Nov. 15	Conserv. Dept.
Engineers—Practices	Sarah E. Hines	Dec. 6	Bd. Eng.
Universities—Foundation	Ralph W. Adams	Oct. 31	38
—T—			
TAXATION:			
Boards of Equalization—Compensation	Glenn O. DeShields	Nov. 25	76
Documentary Tax—Mineral Rights	Flora L. Allen	Dec. 9	80
Filing Tax—Register's Deed	Hoyt B. Hamilton	Nov. 19	67
Motor Vehicles—Boards of Equalization	Fred R. Jones	Oct. 1	13
Motor Vehicles—Boards of Equalization	Louise Champion	Nov. 13	65
Motor Vehicles—Exemptions	Jack K. Courson	Dec. 19	102
Motor Vehicles—Servicemen	Fred L. Donaldson	Nov. 26	66
Municipalities—Corporate Limits	James H. Shores	Oct. 16	17
Tax Assessors and Collectors—Precinct Visits	Dennis B. Howell	Dec. 6	68
Tax Assessors and Collectors—Precinct Visits	E. S. Tunstall	Dec. 13	92
Tax Collectors—Duties	Flora L. Allen	Dec. 6	80
Tax Collectors—Commissions	Alse W. Scott	Oct. 1	5